

Senate Daily Reader

Friday, February 11, 2000

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State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0312

HOUSE ENGROSSED NO. **HB1022** - 1/24/00

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Game, Fish, and Parks

1 FOR AN ACT ENTITLED, An Act to revise and repeal certain hunting, trapping, and fishing
2 activities, restrictions, and prohibitions, and certain game and fish storage and transportation
3 requirements, and to provide for a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 41-8-28 be amended to read as follows:

6 41-8-28. Any person who steals, damages or destroys a trap of another employed in the
7 manner defined in subdivision ~~41-1-1(21)~~ 41-1-1(25), or who steals, damages or destroys
8 animals, animal carcasses, or the pelts thereof, held fast by such traps, is guilty of a Class 1
9 misdemeanor. A violation of this section is also subject to § 41-8-29.

10 Section 2. That § 41-14-4 be amended to read as follows:

11 41-14-4. No person may place into public storage any game bird, game fish, or game animal
12 ~~may be placed in public storage~~ unless the game bird, game fish, or game animal has attached to
13 it a tag showing the owner's name and address, the number and kind of bird, fish, or animal and
14 the date the bird, fish, or animal is placed in storage. Any person who accepts into public storage
15 any game bird, game fish, or game animal must post notice of the tagging requirements of this
16 section in a conspicuous place adjacent to the public storage. For the purposes of this section,

1 public storage is any business that stores game birds, game fish, or game animals for a fee or a
2 convenience and has a South Dakota sales tax license. A violation of this section is a Class 2
3 misdemeanor.

4 Section 3. That § 41-14-8 be amended to read as follows:

5 41-14-8. Any person licensed under the provisions of chapter 41-6 may carry ~~with him~~ as
6 personal baggage any small game or fish lawfully taken or possessed. ~~Shipment by common~~
7 ~~carrier or transportation by a~~ No person may knowingly ship or receive for shipment by common
8 carrier any small game or fish unless the container containing the small game or fish has affixed
9 to the outside of the container a clearly visible statement containing the following information:

10 (1) The name, address, and license number of the person shipping the small game or fish;

11 (2) The number and species of all small game and fish in the container;

12 (3) The date of shipment; and

13 (4) The name and address of the person to whom the small game or fish has been shipped.

14 A person other than the licensee is permissible may transport small game or fish with a
15 transportation and shipping permit. A permit may be obtained from a conservation officer shall
16 issue a transportation and shipping permit or a designee without a charge. A violation of this
17 section is a Class 2 misdemeanor.

18 Section 4. That § 41-8-33 be repealed.

19 ~~41-8-33. No person may set, lay, prepare, or have in possession any trap, snare, artificial~~
20 ~~light, net, bird line, swivel gun, or set gun, or any contrivance for the purpose of catching, taking,~~
21 ~~attempting to take, or killing any game animals or birds, except that decoys and stationary blinds~~
22 ~~may be used in hunting game birds and animals. A violation of this section is a Class 2~~
23 ~~misdemeanor.~~

24 Section 5. That § 41-14-26 be repealed.

25 ~~41-14-26. It is a Class 2 misdemeanor for any express company or other common carrier to~~

1 ~~receive, ship, or transport any fish taken or killed in any of the waters of this state unless such~~
2 ~~shipment is accompanied by a permit issued by a state conservation officer.~~

3 Section 6. That § 41-14-27 be repealed.

4 ~~— 41-14-27. Nothing in this chapter shall be construed to prevent the holder of a valid fishing~~
5 ~~license from personally carrying with him as baggage on any train or other conveyance, fish~~
6 ~~which may be legally in his possession, and any common carrier shall be permitted to carry such~~
7 ~~fish as baggage when same are accompanied on the same train or other conveyance by the person~~
8 ~~who is legally in possession of the same.~~

9 Section 7. That § 41-14-28 be repealed.

10 ~~— 41-14-28. It is a Class 2 misdemeanor for an employee of any common carrier to carry any~~
11 ~~fish, or any part thereof, with him either as baggage or otherwise, while engaged in the~~
12 ~~performance of the duties of his employment.~~

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to Agriculture and Natural Resources. H.J. 16

3 1/18/00 Scheduled for Committee hearing on this date.

4 1/18/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 10, NAYS 2.

5 H.J. 126

6 1/21/00 House of Representatives Deferred to another day. H.J. 182

7 1/24/00 Motion to Amend, Passed. H.J. 209

8 1/24/00 House of Representatives Passed. H.J. 209

9 1/24/00 House of Representatives Do Pass Amended, Passed, AYES 42, NAYS 23. H.J. 209

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0333

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **HB1028** - 2/10/00

Introduced by: The Committee on Health and Human Services at the request of the Department of Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to permit the provision of certain drugs and drug samples
2 by physician assistants, nurse practitioners, and nurse midwives.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-4A-22 be amended to read as follows:

5 36-4A-22. Specifically, and by way of limitations, an assistant to the primary care physician
6 may:

7 (1) Take a complete, detailed, and accurate history; do a complete physical examination,
8 when appropriate, to include pelvic and breast examinations specifically excluding
9 endoscopic examinations; record pertinent data in acceptable medical form; and, if the
10 physical examination is for participation in athletics, certify that the patient is healthy
11 and able to participate;

12 (2) Perform or assist in the performance of the following routine laboratory and
13 governing techniques:

14 (a) The drawing of venous or peripheral blood and the routine examination of the
15 blood;

16 (b) Urinary bladder catheterization and routine urinalysis;

- 1 (c) Nasogastric intubation and gastric lavage;
- 2 (d) The collection of and the examination of the stool;
- 3 (e) The taking of cultures;
- 4 (f) The performance and reading of skin tests;
- 5 (g) The performance of pulmonary function tests excluding endoscopic
- 6 procedures;
- 7 (h) The performance of tonometry;
- 8 (I) The performance of ~~audiometry~~ hearing screenings;
- 9 (j) The taking of EKG tracings;
- 10 (3) Make a tentative medical diagnosis and institute therapy or referral; ~~to~~ prescribe
- 11 ~~medication~~ medications and provide drug samples or a limited supply of labeled
- 12 medications, including controlled drugs or substances listed on Schedule II in chapter
- 13 34-20B for one period of not more than forty-eight hours, for symptoms and
- 14 temporary pain relief; ~~to~~ treat common childhood diseases; to assist in the follow-up
- 15 treatment of geriatric and psychiatric disorders referred by the physicians. Medications
- 16 or sample drugs provided to patients shall be accompanied with written administration
- 17 instructions and appropriate documentation shall be entered in the patient's medical
- 18 record;
- 19 (4) Perform the following routine therapeutic procedures:
- 20 (a) Injections;
- 21 (b) Immunizations;
- 22 (c) Debridement, suture, and care of superficial wounds;
- 23 (d) Debridement of minor superficial burns;
- 24 (e) Removal of foreign bodies from the external surface of the skin (specifically
- 25 excluding foreign bodies of the cornea);

- 1 (f) Removal of sutures;
- 2 (g) Removal of impacted cerumen;
- 3 (h) Subcutaneous local anesthesia, excluding any nerve blocks;
- 4 (I) Strapping, casting, and splinting of sprains;
- 5 (j) Anterior nasal packing for epistaxis;
- 6 (k) Removal of cast;
- 7 (l) Application of traction;
- 8 (m) Application of physical therapy modalities;
- 9 (n) Incision and drainage of superficial skin infections;
- 10 (5) Assist the primary care physician in health maintenance of his patients by:
- 11 (a) Well-baby and well-child clinics to include initial and current booster
- 12 immunization for communicable disease;
- 13 (b) Pre- and post-natal surveillance to include clinics and home visits;
- 14 (c) Family planning, counseling, and management;
- 15 (6) Institute emergency measures and emergency treatment or appropriate measures in
- 16 situations such as cardiac arrest, shock, hemorrhage, convulsions, poisonings, and
- 17 emergency obstetric delivery. Emergency measures includes writing a chemical or
- 18 physical restraint order when the patient may do personal harm or harm others;
- 19 (7) Assist the primary care physician in the management of long-term care to include:
- 20 (a) Ordering indicated laboratory procedures;
- 21 (b) Managing a medical care regimen for acute and chronically ill patients within
- 22 established standing orders. (Prescription of modifications needed by patients
- 23 coping with illness or maintaining health, such as in diet, exercise, relief from
- 24 pain, medication, and adaptation to handicaps or impairments);
- 25 (c) Making referrals to appropriate agencies;

- (8) Assist the primary care physician in the hospital setting by arranging hospital admissions under the direction of the physician, by accompanying the primary care physician on rounds, and recording the physician's patient progress notes; by accurately and appropriately transcribing and executing specific orders at the direction of the physician; by assistance at surgery; by compiling detailed narrative and case summaries; by completion of the forms pertinent to the patient's medical record;
- (9) Assist the primary care physician in the office in the ordering of drugs and supplies, in the keeping of records, and in the upkeep of equipment;
- (10) Assist the primary care physician in providing services to patients requiring continuing care (nursing home, extended care, and home care) including follow-up visits after the initial treatment by the physician;
- (11) Assist the primary care physician in the completion of official documents such as death certificates, birth certificates, and similar documents required by law, including signing the documents;
- (12) Take X-rays to be read by a physician. A physician's assistant may not administer injections in conjunction with the taking of any X-rays.

Section 2. That § 36-9A-12 be amended to read as follows:

36-9A-12. A nurse practitioner may perform the following overlapping scope of advanced practice nursing and medical functions pursuant to § 36-9A-15, including:

- (1) The initial medical diagnosis and the institution of a plan of therapy or referral;
- (2) The prescription of medications and provision of drug samples or a limited supply of labeled medications, including controlled drugs or substances listed on Schedule II in chapter 34-20B for one period of not more than forty-eight hours, for treatment of causative factors and symptoms. Medications or sample drugs provided to patients shall be accompanied with written administration instructions and appropriate

1 documentation shall be entered in the patient's medical record;

2 (3) The writing of a chemical or physical restraint order when the patient may do personal
3 harm or harm others;

4 (4) The completion and signing of official documents such as death certificates, birth
5 certificates, and similar documents required by law; and

6 (5) The performance of a physical examination for participation in athletics and the
7 certification that the patient is healthy and able to participate in athletics.

8 Section 3. That § 36-9A-13 be amended to read as follows:

9 36-9A-13. A nurse midwife may perform the following overlapping scope of advanced
10 practice nursing and medical functions pursuant to § 36-9A-15, including:

11 (1) Management of the prenatal and postpartum care of the mother-baby unit;

12 (2) Management and direction of the birth;

13 (3) Provision of appropriate health supervision during all phases of the reproductive life
14 span to include family planning services, menopausal care, and cancer screening and
15 prevention; and

16 (4) Prescription of appropriate medications and provision of drug samples or a limited
17 supply of appropriate labeled medications for individuals under the nurse midwife's
18 care pursuant to the scope of practice defined in this section, including controlled
19 drugs or substances listed on Schedule II in chapter 34-20B for one period of not
20 more than forty-eight hours. Medications or sample drugs provided to patients shall
21 be accompanied with written administration instructions and appropriate
22 documentation shall be entered in the patient's medical record.

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to Health and Human Services. H.J. 17

3 1/19/00 Scheduled for Committee hearing on this date.

4 1/19/00 Health and Human Services Do Pass Amended, Failed, AYES 6, NAYS 5.

5 1/19/00 Deferred by Chair.

6 1/21/00 Scheduled for Committee hearing on this date.

7 1/21/00 Deferred by Chair.

8 1/26/00 Scheduled for Committee hearing on this date.

9 1/26/00 Health and Human Services Do Pass Amended, Passed, AYES 8, NAYS 4. H.J. 242

10 1/28/00 House of Representatives Deferred to another day.

11 2/1/00 House of Representatives Do Pass Amended, Passed, AYES 62, NAYS 7. H.J. 335

12 2/2/00 First read in Senate and referred to Health and Human Services. S.J. 298

13 2/9/00 Scheduled for Committee hearing on this date.

14 2/9/00 Health and Human Services Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 400

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0329

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1031** - 1/24/0

Introduced by: The Committee on Education at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to allow certain driver education courses from other states
2 to be used to meet the requirements for a restricted minor's permit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-12-12 be amended to read as follows:

5 32-12-12. A restricted minor's permit may be issued, upon application and payment of the
6 proper fee as provided for in § 32-12-16, to a minor at least fourteen years of age but less than
7 eighteen years of age who has successfully passed all driver's license examination tests and
8 completed the requirements of an instruction permit as outlined in § 32-12-11 and has not been
9 convicted of a traffic violation during the past six months. For any such minor who has
10 successfully completed a driver education ~~class~~ course that has been approved by the ~~Division~~
11 ~~of Education Services and Resources~~ Department of Education and Cultural Affairs or that the
12 secretary of commerce and regulation has determined the said course has been approved by a
13 state government agency in another state, the required minimum time period for holding the
14 instruction permit in order to qualify for the restricted minor's permit is ninety continuous days.
15 A restricted minor's permit entitles the holder, while having the permit in immediate physical
16 possession, to operate a motor vehicle during the hours of 6 a.m. to 8 p.m. standard time if the

1 motor vehicle is being operated with the permission of the minor's parents or guardian and during
2 the hours of 8 p.m. to 6 a.m. if the motor vehicle is being operated under the direction of the
3 minor's parent or guardian who is occupying a seat beside the driver. The restrictions as to time
4 of operation and operation under the direction of a parent or guardian do not apply to the holder
5 of a valid restricted minor's permit operating a self-propelled agricultural machine which is not
6 subject to registration under chapter 32-5.

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to committee assignment waived. H.J. 18

3 1/12/00 Referred to Education. H.J. 33

4 1/18/00 Scheduled for Committee hearing on this date.

5 1/18/00 Education Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 110

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0343

SENATE TAXATION COMMITTEE ENGROSSED NO. **HB1037** - 2/10/00

Introduced by: The Committee on Local Government at the request of the Department of
Revenue

1 FOR AN ACT ENTITLED, An Act to require municipalities to provide boundary change
2 information to the Department of Revenue to facilitate the development of a simplified sales
3 tax collection system.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 10-52 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For purposes of this chapter, any new resolution or amendment enacted by a municipality
8 which changes the boundaries of the municipality is effective on the first day of the first month
9 following at least sixty days notification by the municipality to the secretary of revenue that the
10 resolution or amendment has been enacted unless the ordinance or amendment is suspended by
11 operation of a referendum. If a resolution or amendment enacted pursuant to chapter 9-4 is
12 referred and the referred resolution or amendment is approved, the effective date is the first day
13 of the first month following at least sixty days notification by a municipality to the secretary of
14 revenue that the resolution or amendment has been approved. The municipality shall provide
15 written notification of the enactment or approval of the resolution or amendment, along with a
16 copy of the resolution or amendment by registered or certified mail or by any electronic means

1 to the secretary of revenue. The municipality shall also provide any changes or additions to
2 streets and addresses.

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to Taxation. H.J. 19

3 1/18/00 Scheduled for Committee hearing on this date.

4 1/18/00 Taxation Do Pass, Passed, AYES 13, NAYS 0. H.J. 110

5 1/19/00 House of Representatives Do Pass, Passed, AYES 68, NAYS 0. H.J. 149

6 1/20/00 First read in Senate and referred to Taxation. S.J. 132

7 2/4/00 Scheduled for Committee hearing on this date.

8 2/9/00 Scheduled for Committee hearing on this date.

9 2/9/00 Taxation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 380

10 2/9/00 Taxation Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

382D0339

HOUSE ENGROSSED NO. **HB1092** - 2/1/00

Introduced by: Representatives Konold, Brown (Jarvis), Crisp, Diedtrich (Elmer), Pummel, Smidt, and Wetz and Senators Madden and Brosz

1 FOR AN ACT ENTITLED, An Act to provide for the regulation of home inspectors.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Client," any person who engages, or seeks to engage, the services of a home
5 inspector for the purpose of obtaining inspection of and written report upon the
6 condition of a residential building;

7 (2) "Commission," the South Dakota Real Estate Commission;

8 (3) "Home inspector," any person registered or licensed as a home inspector pursuant to
9 the provisions of this Act;

10 (4) "Home inspection," an inspection and written evaluation of all the following
11 components of a residential building: heating system, cooling system, plumbing
12 system, electrical system, structural components, foundation, roof, masonry structure,
13 and exterior and interior components;

14 (5) "Residential building," a structure consisting of not more than four family dwelling
15 units.

16 Section 2. The commission shall issue and renew certificates to licensed and registered home

1 inspectors pursuant to the provisions of this Act.

2 Section 3. No person may provide, or hold oneself out as able to provide, a home inspection
3 for compensation unless registered or licensed in accordance with the provisions of this Act. A
4 violation of this section is a Class 1 misdemeanor.

5 Section 4. An applicant for a license as a home inspector shall file a written application
6 provided by the commission showing that the applicant meets the following requirements:

- 7 (1) Good moral character;
- 8 (2) Successful completion of high school or high school equivalency;
- 9 (3) Employment as a registered home inspector for no less than one year and performance
10 of not less than one hundred home inspections for compensation; and
- 11 (4) Successful completion of a licensing examination approved by the commission.

12 Section 5. An applicant for registration as a home inspector shall file a written application
13 provided by the commission showing that the applicant meets the following requirements:

- 14 (1) Good moral character;
- 15 (2) Successful completion of high school or high school equivalency;
- 16 (3) Successful completion of an approved course of study of not less than forty hours, as
17 prescribed by the commission in rules promulgated pursuant to chapter 1-26; and
- 18 (4) Successful completion of a registration examination approved by the commission.

19 Section 6. The commission shall promulgate rules pursuant to chapter 1-26 for licensed and
20 registered home inspectors in the following areas:

- 21 (1) Standards and requirements for prelicense and continuing education, including
22 qualifications of instructors, procedures for granting a certificate of accreditation,
23 notification of a material change in an approved course offering, suspension,
24 revocation, and denial of course approval, certification of attendance, preregistration,
25 and hours required to renew a license or registration;

- (2) A code of ethics and standards of practice;
- (3) Fees for applications, examinations, registration, licensure, and renewals, not to exceed two hundred dollars for application and one hundred dollars for renewal;
- (4) Procedures and qualifications for application, minimum requirements for examination, procedures for the examination and the administration of the examination, the required score for passing the examination, and procedures for replacement of a license;
- (5) Procedures for disciplinary proceedings, including requirements for filing a complaint, dismissal of a complaint, informal and formal resolution of a complaint, formal complaint and answer requirements, final action and review, disqualification of a commission member from a hearing, and authorization for per diem and mileage; and
- (6) Procedures for declaratory rulings, petitions for rules, and contested cases.

Section 7. The provisions of this Act do not apply to any of the following persons:

- (1) Any person who is employed as a code enforcement official by the state or a political subdivision of the state when acting within the scope of that governmental employment;
- (2) Any person regulated by the state as an architect, professional engineer, electrical contractor, or plumber, who is acting within the scope of practice of the person's profession or occupation;
- (3) Any real estate broker or salesperson licensed by the state when acting within the scope of that person's license;
- (4) Any real estate appraiser certified, licensed, or registered by the state when acting within the scope of that person's license;
- (5) Any person engaged as an insurance adjuster, when acting within the scope of that person's profession; or

1 (6) Any manufactured home dealer who is licensed by the state, when acting within the
2 scope of that person's license.

3 Section 8. Upon payment to the commission of a fee and the submission of a written
4 application provided by the commission, the commission may issue a home inspector license to
5 any person who holds a valid license issued by another state or possession of the United States
6 or the District of Columbia which has standards substantially equivalent to those of this state,
7 as determined by the commission.

8 Section 9. During the first three hundred sixty-five days after the effective date of this Act,
9 the commission shall issue to any person, upon application, a home inspector license, if the
10 applicant meets the requirements of subdivisions (1), (2), and (4) of section 4 of this Act and has
11 been engaged in the practice of home inspections for compensation for not less than one year
12 prior to the effective date of this Act and has performed not less than one hundred home
13 inspections for compensation.

14 Section 10. Any license or registration expires on December thirty-first of the year following
15 issuance and may be renewed biennially. An application for renewal shall be filed with the
16 commission no later than November thirtieth of the year of expiration. Any renewal application
17 filed after that date is subject to a late renewal penalty of twenty dollars per month or fraction
18 thereof. However, no late renewal may be filed after June thirtieth of the year following the
19 expiration of the registration or license.

20 Section 11. The commission may suspend, revoke, reprimand, or assess a monetary penalty
21 not to exceed two thousand five hundred dollars, or may provide for a combination or
22 revocation, suspension, reprimand, or monetary penalty, for any violation of this Act or any
23 administrative rule adopted to administer this Act.

24 Section 12. All fees and any fines imposed by the commission shall be paid to the fund of the
25 commission.

1 Section 13. The commission may refuse to grant or may suspend or revoke a home inspector
2 license or registration upon proof, to the satisfaction of the commission, that the holder has:

3 (1) Disclosed any information concerning the results of the home inspection without the
4 approval of a client or the client's representative;

5 (2) Accepted compensation from more than one interested party for the same service
6 without the written consent of all interested parties;

7 (3) Accepted commissions or allowances, directly or indirectly, from other parties dealing
8 with the holder's client in connection with work for which the holder is responsible;
9 or

10 (4) Failed to disclose promptly to a client information about any business interest of the
11 holder which may affect the client in connection with the home inspection.

12 Section 14. This Act is effective on January 1, 2001.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to Commerce. H.J. 58

3 1/20/00 Scheduled for Committee hearing on this date.

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 221

6 1/27/00 House of Representatives Deferred to another day.

7 1/28/00 House of Representatives Deferred to another day. H.J. 288

8 1/31/00 Motion to Amend, Passed. H.J. 312

9 1/31/00 House of Representatives Do Pass Amended, Passed, AYES 51, NAYS 17. H.J. 312

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

454D0386

SENATE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1095** - 2/10/00

Introduced by: Representatives Hunt, Diedrich (Larry), Fischer-Clemens, Koehn, Monroe, Volesky, and Young and Senators Lawler, Flowers, Hutmacher, Kleven, and Moore

1 FOR AN ACT ENTITLED, An Act to authorize professional corporations, limited liability
2 companies, or limited liability partnerships owned by certain health care professionals of
3 more than one profession.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Terms used in this Act mean:

6 (1) "Authorized licensee," a natural person licensed as a health care professional under
7 Title 36 and entitled to form a professional corporation pursuant to chapters 47-11,
8 47-11A, 47-11B, 47-11C, 47-11D, and 47-11E;

9 (2) "Professional employee," an employee of a professional corporation who is an
10 authorized licensee, but not a shareholder of the corporation.

11 Section 2. For the purposes of this Act, the term, professional corporation, includes a limited
12 liability company organized under chapter 47-34A or a limited liability partnership organized
13 under chapter 48-7. With respect to a limited liability company, references in this Act to articles
14 of incorporation, by-laws, directors, officers, shareholders, and shares of stock refer to articles
15 of organization, operating agreement, governors, managers, members, and membership interest,

1 respectively. With respect to a limited liability partnership, references in this Act to articles of
2 incorporation and by-laws refer to partnership agreement, references to directors, officers, and
3 shareholders refer to partners, and references to shares of stock refer to partnership interests.

4 Section 3. One or more authorized licensees may form a professional corporation for the
5 purpose of rendering two or more kinds of professional services and services ancillary thereto.
6 A professional corporation may not employ a person who is an authorized licensee unless at least
7 one shareholder of the professional corporation is an authorized licensee of the same profession.

8 Section 4. No professional corporation may provide any professional service or ancillary
9 service without a certificate of registration from the licensing board of each category of licensee
10 who is a shareholder. An application for such registration shall be made to the applicable boards
11 in writing and shall contain the name and address of the corporation, the information required
12 in section 10 of this Act, and such other information as may be required by each licensing board.

13 Section 5. Upon receipt of an application made pursuant to section 4 of this Act, each
14 licensing board shall investigate the proposed professional corporation. If the board finds that
15 the shareholders and professional employees within its jurisdiction are properly licensed and have
16 no disciplinary action pending before the board and if it appears that the corporation will be
17 conducted in compliance with the law and rules of the board, the board shall issue an annually
18 renewable certificate of registration upon payment of a registration fee in an amount to be
19 established by rule pursuant to chapter 1-26. The application for renewal of a certificate of
20 registration must report any change in status of the corporation or its shareholders. The
21 corporation shall promptly report to any licensing board having jurisdiction the occurrence of
22 any event mentioned in subdivisions (1), (2), and (3) of section 8 of this Act.

23 Section 6. The certificate of registration issued pursuant to section 5 of this Act shall be
24 conspicuously posted upon the premises to which it is applicable.

25 Section 7. An application for an amended certificate of registration shall be filed with any

boards having jurisdiction of the professional corporation any time the location or ownership of the professional corporation changes. The respective boards shall investigate the corporation to determine whether it continues to meet the requirements of this Act. Certificates of registration are not assignable.

Section 8. Any licensing board having jurisdiction over a professional corporation may suspend or revoke the certificate of registration issued under this Act for any of the following reasons:

- (1) The revocation or suspension of the license to practice of any shareholder or professional employee not promptly removed or discharged by the corporation;
- (2) Unprofessional conduct by any shareholder or professional employee not promptly removed or discharged by the corporation;
- (3) The death of the last remaining shareholder; or
- (4) Upon a finding that the certificate holder has failed to comply with the provisions of this Act or rules prescribed by any licensing board having jurisdiction over the certificate holder.

Section 9. Before any certificate of registration is suspended or revoked, the holder is entitled to a hearing pursuant to chapter 1-26 before the board or boards having jurisdiction. The hearing may be held jointly by the boards, but each board shall render its own decision. Any party to such a hearing is entitled to appeal pursuant to chapter 1-26. If any licensing board finds that the suspension or revocation is necessary to protect the public health, safety, or welfare or because willful acts are involved, it may dispense with the requirement of prior notice and hearing. However, the professional corporation shall have a seasonable hearing after any such suspension or revocation.

Section 10. In addition to providing the information required by the South Dakota Business Corporation Act, the following information is also required in the forming documents of a

1 professional corporation, the organizing documents of a limited liability company, or the
2 registration documents of a limited liability partnership:

- 3 (1) The name of the corporation, limited liability company, or limited liability partnership;
- 4 (2) The purpose of the corporation, limited liability company, or limited liability
5 partnership;
- 6 (3) A statement that the shareholders of the corporation, members of the limited liability
7 company, or partners in a limited liability partnership may only be professional
8 persons licensed to render the kind of professional service that fit the purpose of the
9 corporation, limited liability company, or limited liability partnership; and
- 10 (4) A statement that the officers and directors of a corporation, the governors and
11 managers of a limited liability company, and the partners of a limited liability
12 partnership, must be professional persons licensed to render the kind of professional
13 services that fit the purpose of the corporation, limited liability company, or limited
14 liability partnership.

15 Section 11. The corporate name of a corporation formed pursuant to this Act shall end with
16 the words, Professional Corporation, or the abbreviation, P.C., or the word, Limited, or the
17 abbreviation, Ltd. The name of any limited liability company shall end with the words,
18 Professional Limited Liability Company, or the abbreviation, P.L.L.C., or the words, Limited
19 Liability Company, or the abbreviation, L.L.C. The name of any limited liability partnership shall
20 end with the words, Professional Limited Liability Partnership, or the abbreviation, P.L.L.P., or
21 the words, Limited Liability Partnership, or the abbreviation, L.L.P.

22 Section 12. A professional corporation may own real and personal property necessary or
23 appropriate for rendering professional service and may invest its funds in real estate, mortgages,
24 stocks, bonds, or any other type of investment.

25 Section 13. This Act does not authorize an individual to practice any profession, or furnish

1 any professional service, for which the individual is not licensed.

2 Section 14. A professional corporation may exercise any powers accorded it by its generally
3 applicable governing law, so long as the professional corporation exercises those powers solely
4 to provide the pertinent professional services or to accomplish tasks ancillary to providing those
5 services.

6 Section 15. No professional corporation may adopt, implement, or follow a policy,
7 procedure, or practice, which would give any licensing board having jurisdiction grounds for
8 disciplinary action, cause a violation of professional ethics, or cause a violation of the
9 professional duty to use due care, against a shareholder or professional employee who follows,
10 agrees to, or acquiesces in the policy, procedure, or practice. Any licensing board having
11 jurisdiction shall be notified of any practice or policy adopted by the professional corporation
12 that violates any provision of this Act. Any dissension or deadlock resulting in a corporate policy
13 or action violating the terms of this Act shall be reported to any licensing board having
14 jurisdiction. Any licensing board having jurisdiction shall have access to any business records and
15 any patient records relevant to the actions of its respective licensee.

16 Section 16. This Act does not alter any law applicable to the relationship between a
17 professional licensee furnishing health care services and the person receiving those services,
18 including liability arising out of those services. To the extent required by the licensing law
19 governing any authorized licensee or professional employee, the corporation shall comply with
20 the provisions of such law relevant to the maintenance of professional liability insurance for those
21 affected health care professionals employed by the corporation.

22 Section 17. Patient records shall be kept strictly confidential. No provision of this Act,
23 including interdisciplinary access to patient records by any stockholder, professional employee,
24 or any employee of a professional corporation, constitutes a waiver of any privilege on
25 confidential communications which otherwise exists under any provision of the law of this state.

1 Section 18. The licensing boards having jurisdiction over professional corporations
2 authorized in chapters 47-11, 47-11A, 47-11B, 47-11C, 47-11D, and 47-11E are authorized to
3 promulgate rules pursuant to chapter 1-26 to implement the provisions of this Act, including the
4 following provisions:

5 (1) Definition of terms;

6 (2) Applications for registration and renewed registration as provided by sections 4 and
7 5 of this Act;

8 (3) Procedure for investigations as provided by sections 5 and 15 of this Act;

9 (4) Standards for hearings and summary suspension or revocation as provided by section
10 9 of this Act; and

11 (5) Interboard consultation and hearings as provided by sections 4, 5, 7, 9, and 15 of this
12 Act.

13 Section 19. The provisions of this Act do not affect or preempt any requirements contained
14 in Title 58.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to Judiciary. H.J. 58

3 1/21/00 Scheduled for Committee hearing on this date.

4 1/21/00 Judiciary Do Pass, Passed, AYES 12, NAYS 0. H.J. 188

5 1/25/00 House of Representatives Do Pass, Passed, AYES 49, NAYS 19. H.J. 232

6 1/26/00 First read in Senate and referred to Judiciary. S.J. 210

7 2/7/00 Senate Referred to State Affairs.

8 2/9/00 Scheduled for Committee hearing on this date.

9 2/9/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 379

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

626D0475

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1116** - 2/1/00

Introduced by: Representative Napoli and Senator Munson (David)

1 FOR AN ACT ENTITLED, An Act to prohibit motor vehicle brokering.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 32-6B-4 be amended to read as follows:

4 32-6B-4. No person may engage in the business, either exclusively or in addition to any other
5 occupation, of selling, or may offer to sell, display, ~~act as a broker,~~ or advertise the sale of new
6 or used vehicles, without a license as provided in § 32-6B-12. A violation of this section is a
7 ~~Class 1~~ Class 2 misdemeanor. ~~A second or subsequent violation of this section is a Class 6~~
8 ~~felony.~~

9 Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
10 follows:

11 No person may act as, offer to act as, or hold himself or herself out to be a broker. A
12 violation of this section is a Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Commerce. H.J. 115

3 1/19/00 House of Representatives Referred to Transportation. H.J. 128

4 1/26/00 Scheduled for Committee hearing on this date.

5 1/31/00 Scheduled for Committee hearing on this date.

6 1/31/00 Transportation Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 305

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

941D0492

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1122** - 2/10/00

Introduced by: Representatives McNenny, Hennies, Juhnke, Napoli, Pummel, and Sutton
(Duane) and Senators Albers and Kleven

1 FOR AN ACT ENTITLED, An Act to require a removal agency to notify a county sheriff or
2 chief of police after removing certain motor vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-30 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If any removal agency as defined by § 32-36-2 removes any unattended motor vehicle from
7 a public street or highway and the removal is not at the request of a law enforcement officer, the
8 removal agency shall report the removal to the county sheriff, if the removal occurred outside
9 any municipality, or to the chief of police, if the removal occurred inside any municipality, within
10 twenty-four hours of removing the motor vehicle. Failure to make a report as provided by this
11 section is a Class 2 misdemeanor.

12 Section 2. That chapter 32-30 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 If a removal agency fails to make a report as required by section 1 of this Act, the removal
15 agency is not entitled to any towing or storage fees for the removed vehicle and no such towing
16 or storage fees may be billed or collected by the removal agency.

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Local Government. H.J. 116

3 1/27/00 Scheduled for Committee hearing on this date.

4 1/27/00 Deferred by Chair.

5 2/1/00 Scheduled for Committee hearing on this date.

6 2/1/00 Local Government Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 337

7 2/1/00 Local Government Place on Consent Calendar.

8 2/3/00 House of Representatives Do Pass Amended, Passed, AYES 66, NAYS 3. H.J. 390

9 2/4/00 First read in Senate and referred to Local Government. S.J. 323

10 2/9/00 Scheduled for Committee hearing on this date.

11 2/9/00 Local Government Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 401

12 2/9/00 Local Government Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

168D0116

HOUSE ENGROSSED NO. **HB1140** - 2/2/00

Introduced by: Representatives Cutler, Fischer-Clemens, Koskan, and Napoli and Senators
Daugaard, Albers, and Flowers

1 FOR AN ACT ENTITLED, An Act to provide for the charging of a fee for the redemption of
2 a tax sale.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-24-17 be amended to read as follows:

5 10-24-17. Immediately after redemption from any tax sale, the county treasurer shall notify
6 the purchaser or present holder of the redeemed tax certificate of such redemption. The notice
7 shall be sent by mail to the ~~purchaser or present holder to his~~ address as shown by the record of
8 the certificate or assignment ~~thereof, or if of the purchaser or present holder. If~~ there is no such
9 address, the notice shall be sent to the last known address of the purchaser or present holder. The
10 notice shall give the description of the property and amount of redemption. The county treasurer
11 shall ~~deduct from the redemption money the sum of five dollars~~ charge a fee in accordance with
12 § 10-23-8 for each notice ~~which. The fee~~ shall be deposited in the county general fund. If the
13 certificate has been assigned and assignment recorded, the notice shall be sent to the assignee
14 only.

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Local Government. H.J. 119

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Local Government Do Pass, Passed, AYES 13, NAYS 0. H.J. 336

5 2/1/00 Local Government Place on Consent Calendar.

6 2/2/00 House of Representatives Do Pass, Passed, AYES 68, NAYS 0. H.J. 368

7 2/2/00 House of Representatives Title Amended Passed. H.J. 368

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

670D0657

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1188** - 2/2/00

Introduced by: Representatives Broderick and Earley and Senators Munson (David) and Whiting

1 FOR AN ACT ENTITLED, An Act to allow the payment of the motor vehicle excise tax by a
2 person on behalf of the owner.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-5-27 be amended to read as follows:

5 32-5-27. Any dealer, person, firm, or corporation, which brings into the state or purchases
6 any used or secondhand out-of-state motor vehicles not currently licensed in this state for the
7 purpose of sale or resale, except as a trade-in on a new motor vehicle or another used motor
8 vehicle or vehicles receiving a junking certificate or motor vehicles with a gross vehicle weight
9 rating of over twenty-six thousand pounds or a semitrailer with a manufacturer's shipping weight
10 of nine thousand pounds or more, shall, within thirty days from the date of purchase or entry of
11 the motor vehicle into the limits of this state, or from the date of purchase at a dealer's car
12 auction agency, title the motor vehicle pursuant to chapter 32-3 and pay the excise tax pursuant
13 to chapter 32-5B but is not required to license the vehicle. Any licensed motor vehicle dealer
14 titling a motor vehicle pursuant to this section is exempt from paying the excise tax imposed by
15 § 32-5B-1 on such vehicle. A vehicle titled by a licensed motor vehicle dealer pursuant to this
16 section shall be issued a title indicating that no excise tax has been paid. Upon transfer of the title

1 to a subsequent purchaser of the motor vehicle, the excise tax shall be paid by the purchaser or
2 by any other person as defined by subdivision 2-14-2(18), on behalf of and as the agent for the
3 purchaser. A violation of this section is a Class 2 misdemeanor.

4 The provisions of this section do not apply to any motor vehicle titled and licensed in another
5 jurisdiction which is sold in this state through a dealer's car auction agency licensed under the
6 provisions of chapter 32-6B.

7 Section 2. That § 32-5B-9 be amended to read as follows:

8 32-5B-9. The new owner of a motor vehicle, or with written authorization, any other person
9 as defined by subdivision 2-14-2(18) on behalf of and as the agent for the new owner, shall
10 present to the county treasurer in the county of ~~his~~ the new owner's residence the manufacturer's
11 or importer's statement or certificate of origin or the assigned certificate of title and a properly
12 endorsed motor vehicle purchaser's certificate. The motor vehicle purchaser's certificate shall be
13 on a form to be furnished by the Department of Revenue through the county treasurer's office.
14 The certificate shall contain a complete description of the motor vehicle, the owner's name and
15 address, the previous owner's name and address, the full purchase price as defined by § 32-5B-4
16 and how computed, the trade-in allowance and description of the trade, if any, and any other
17 relevant information the Department of Revenue may require. However, for a motor vehicle
18 licensed and registered pursuant to chapter 32-10, the manufacturer's or importer's statement or
19 certificate of origin or an assigned certificate of title and a properly endorsed motor vehicle
20 purchaser's certificate shall be presented to the Department of Revenue. ~~If a~~ Any person who
21 intentionally falsifies information on the certificate, ~~he~~ is guilty of a Class 6 felony.

22 Section 3. That § 32-5-2 be amended to read as follows:

23 32-5-2. Every owner, or with written authorization, any other person as defined by
24 subdivision 2-14-2(18) on behalf of and as the agent for the owner, of a motor vehicle,
25 motorcycle, truck tractor, road tractor, trailer or semitrailer, or recreational vehicle or trailer,

1 which is operated or driven upon the public highways of this state, shall, except as otherwise
2 expressly provided, present to the county treasurer of ~~his~~ the owner's county, or, in case of a
3 nonresident of this state, the treasurer of any county, application for the registration of that
4 vehicle. The application form shall be furnished by the department and shall contain but not be
5 limited to the following information:

- 6 (1) The number of cylinders or the bore and stroke of each cylinder;
- 7 (2) The manufacturer's weight;
- 8 (3) Whether the vehicle operates on diesel fuel, liquified petroleum gas, gasoline, or any
9 other special fuel;
- 10 (4) The make, model, body, year, color, and vehicle identification number of the vehicle;
- 11 (5) The odometer reading; and
- 12 (6) The purchase price and the name and address of the seller, buyer, and lienholder, if
13 any.

14 Any person who fails to provide the above information to the county treasurer or the
15 department is guilty of a Class 2 misdemeanor. The department or the county treasurer may not
16 accept an incomplete application form or an application form which the department considers
17 erroneous.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 139

3 1/20/00 Referred to Commerce.

4 2/1/00 Scheduled for Committee hearing on this date.

5 2/1/00 Commerce Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 344

6 2/1/00 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

463D0506

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1190** - 1/31/00

Introduced by: Representatives Fischer-Clemens, Haley, Lucas, and Roe and Senators Moore, Hutmacher, and Paisley

1 FOR AN ACT ENTITLED, An Act to repeal the specific time period that an insurance agent
2 involved in certain crimes must wait before seeking licensure.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-30-23 be amended to read as follows:

5 58-30-23. Any individual licensed as an agent shall be trustworthy, of good character and
6 reputation as to morals, integrity, and financial responsibility, and may not have been convicted
7 of, or have pled guilty or nolo contendere to, a felony or of any crime involving moral turpitude.
8 The director of the Division of Insurance may waive the restriction relating to conviction of, or
9 plea of guilty or nolo contendere to, a felony ~~if three years have elapsed since completion of the~~
10 ~~sentence imposed by the court in connection with the violation~~ or crime involving moral
11 turpitude upon determining, pursuant to § 58-30-23.1, that the individual has been sufficiently
12 rehabilitated.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 139

3 1/20/00 Referred to Commerce.

4 1/27/00 Scheduled for Committee hearing on this date.

5 1/27/00 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 283

6 1/27/00 Commerce Place on Consent Calendar.